

**CALIFORNIA HIGHWAY PATROL**  
2555 FIRST AVENUE  
SACRAMENTO, CA 95818



December 23, 2003

Ms. Jessie H. Roberson  
Assistant Secretary  
U.S. Department of Energy  
Office of Environmental Management  
1000 Independence Avenue, SW  
Washington, D.C. 20585

Dear Assistant Secretary Roberson:

This letter is written in response to the Department of Energy's (DOE) plan to begin shipments in January 2004, of transuranic waste through California from the Nevada Test Site (NTS) to the Waste Isolation Pilot Plant (WIPP). The purpose of this letter is to clarify the terms to which the affected parties agree before DOE begins these shipments.

We appreciate DOE's efforts to work with the Western Governors' Association (WGA) to achieve a mutually acceptable resolution of this routing issue. However, before these shipments begin, it is important that the parties involved in the WGA-facilitated agreement on the routes have a clear understanding of the terms for DOE's use of these state routes for these shipments.

In the spirit of cooperation and in an attempt to help achieve a compromise on the routing issue, California through the WGA offered to accept the first half of the shipments from NTS to WIPP, as long as the DOE and states agreed not to include California routes for the second set of shipments. The basic premise of this compromise, described in the WGA letter dated October 9, 2003, is that California would accept approximately half of these shipments (up to 60 shipments), with the understanding that routes for the second set of shipments will exclude predominantly California routes (total number of shipments for the first and second sets would be split equally between California and Nevada). In letters dated October 9, 2003, and November 4, 2003, WGA proposed a process leading up to the first shipment from NTS that would protect this original compromise, splitting the shipments equitably between California and Nevada. DOE's letter of reply dated October 23, 2003, agreed to certain of these conditions. The WGA, DOE, and the affected states have offered the following terms:

1. DOE plans to use California State Route 127 via Barstow for the first set (40-60 shipments total) of shipments from NTS to WIPP to be completed in 2004.
2. Routes for additional shipments (shipments beyond the first set) would require prior concurrence from the affected states, including California. DOE agrees that California will not be considered nor is it open to negotiation for the second set of shipments.
3. DOE, WGA and the affected states will negotiate in good faith on an alternate route for the second set of shipments. As noted in WGA's letter dated October 9, 2003, it is WGA's and the affected states' expectation that the routes for the second set of shipments will exclude predominantly California routes in the first 200 miles of each shipment (total number of shipments for first and second sets would be split approximately equally between California and Nevada).
4. All shipments will be made in accordance with the WGA WIPP Transport Safety Protocols.
5. DOE does not plan to make shipments from NTS to WIPP affected by the Highway Route Controlled Quantity (HRCQ) guidelines.
6. DOE agrees to reimburse California for costs the California Highway Patrol may incur for escorting the first set of shipments through existing WGA WIPP contract funds.
7. DOE will avoid shipments on State Route 127 during holidays and special events in Death Valley National Park when tourist traffic is expected to be high.

It is important to note that California has not designated California State Route 127 as an approved route for HRCQ radioactive material shipments. WGA's letter dated October 9, 2003, notes that shipments affected by the HRCQ guidelines will not be allowed on state routes without the affected state's prior concurrence. SR-127 cannot be used for HRCQ shipments without concurrence by the State of California.

Agreement by all parties to these terms is necessary to assure clarity in long-range planning for these shipments, since the second set of shipments from NTS is not likely to occur for several years. It is important that all parties clearly understand the WGA compromise whereby California would accept the first half of the shipments, with the understanding that predominantly California routes are excluded from the second set of shipments.

In closing, we would like to commend WGA for its continuing efforts to coordinate DOE and states' activities to ensure the safe and uneventful transport of transuranic waste to the WIPP facility. WGA's guidance and assistance to states in preparing for these shipments and their strong role in mediating issues that may arise, as well as coordinating DOE/state agreements, are extremely vital to the long-range effectiveness of the WIPP transport safety program. States are depending upon DOE to honor these important agreements with WGA.

We are available to work with DOE on these issues as soon as possible. If you have any questions, please phone James Boyd at 916-654-3787.

Sincerely,

*Original was signed by Commissioner Boyd*

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JAMES D. BOYD, Commissioner and  
California Representative on the  
WIPP Technical Advisory Group  
California Energy Commission

*Original was signed by Commissioner Helmick*

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D.O. HELMICK, Commissioner  
California Highway Patrol

JDB/DOH:bb/lb

cc: Governor Arnold Schwarzenegger  
The Honorable Dianne Feinstein  
The Honorable Barbara Boxer  
The Honorable Jerry Lewis  
The Honorable Sam Farr  
Alice Williams, DOE-HQ  
Dr. Inez Triay, Casey Gadbury, Ralph Smith, DOE-CBFO  
WGA WIPP Transport Advisory Group